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BAY DELTA URBAN COALITION

November 11, 1998

Mr. Lester Snow, General Manager
CALFED Bay-Delta Program
1416 Ninth Street
Sacramento, CA 95814

Subject: Water Transfer Program Appendix - Early Review Draft (October 1, 1998)

Dear Mr. Snow:

Thank you for the opportunity to comment on the Early Review Draft of the Water Transfer Program Appendix dated October 1, 1998 ("Draft Appendix"). We provide you with the following "big picture" comments on the Draft Appendix. We also offer to provide more specific, detailed comments at your and your staff's convenience.

Our perspective on this topic is driven by our diverse membership. The Bay Delta Urban Coalition ("Urban Coalition") represents eleven municipal water providers in the State. Cumulatively, Urban Coalition members supply water for over 22 million California industrial, commercial and residential water users. Our membership includes large and small purveyors located both north and south of the Delta. Urban Coalition members not only relied upon water transfers during the last drought, but incorporate water transfers as part of their water supply planning process. Urban Coalition members bring both practical experience and a sense of the very real role that water transfers can play in water management. Our general comments follow:

1. First, the role of water transfers and the geographic scope of proposed recommendations within the context of the CALFED effort remain unclear. The Draft Appendix indicates that CALFED will not itself undertake transfers. Further, we understand that CALFED is not proposing to operate in a regulatory or quasi-regulatory capacity. Instead, the Draft Appendix indicates that CALFED intends to identify issues related to water transfers, develop recommendations to resolve such issues, and develop strategies to implement the recommendations. Because CALFED's membership consists of agencies with substantial regulatory, administrative and proprietary authorities, CALFED's positions may as a practical matter control or influence water transfers in California. Therefore, it is essential that CALFED proposals for legislation and other actions be carefully considered and equitable. Our primary concerns with the Draft Appendix follow.

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2. The Draft Appendix states that: "The purpose of this water transfer framework is to facilitate and encourage the use of water transfers as a water management tool." (page 6) However, a number of the proposals put forth in this document run the serious risk of further encumbering transfers, rather than encouraging a more successful market. CALFED should take care that its proposals avoid increasing unnecessary regulatory and other hurdles to water transfers. CALFED's water transfer framework should not increase the time necessary to achieve a transfer nor impose other burdens which deter transfers from taking place.
3. During this past year, the business community's efforts to streamline consideration and processing of short term transfers were reflected in proposed water transfer legislation. Although SB1011 was unsuccessful, there is a strong and continuing desire to make the water transfer market more viable and efficient. Efforts to streamline consideration and processing of water transfers should continue.
4. Standardized rules for agencies that have jurisdiction over transfers would be useful. However, such rules should not become de facto regulatory hurdles for water transfers. We support the development of uniform rules and uniform application in a manner conducive to successful transfers, without injury to lawful water users. We note that the Draft Appendix suggests public review beyond that required by NEPA, CEQA, the Water Code, or other existing laws and regulations which may portend an even more complex and difficult pathway for such transfers.
5. Expansion of the State Water Resources Control Board's or other agencies' existing regulatory jurisdiction is neither appropriate nor conducive to an expanded water transfer market.
6. The Draft Appendix's assumption that all water exchanges are equivalent to a series of water transfers is simply not correct. Water exchanges may not involve the physical movement of water at all, contrary to the definition of transfers stated on page 6. As such, water exchanges deserve separate consideration as a valuable and unique water management tool.
7. A water transfer information clearinghouse that disseminates neutral information on water transfers would be useful. However, at this early stage in the development of the CALFED solution, such a clearinghouse should not make technical or quasi-technical determinations on individual water transfers. In addition, stakeholders should be allowed to participate in the crafting of legislation to create a water transfer clearinghouse.

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8. All three of the potential solution options involve interpretation of the "no injury" rule. Consistent interpretation and application of this important rule would be useful in many respects, including but not limited to the transfer arena. The Urban Coalition and its members request the opportunity to participate in any such solution processes.
9. The Draft Appendix recommends mitigation measures which in some instances would be appropriate to mitigate the impacts of the transfer, and in other instances would unduly restrict transfers without sufficient factual basis. It is nonetheless important to tailor the categories of transfers subject to such measures to the transfers having those impacts, and to afford the transfers commensurate streamlined review.
10. The Urban Coalition supports CALFED's proposal to address physical constraints on water transfers (e.g. cross-Delta transfers) and carriage water criteria.

We again thank you for this opportunity to comment on the Draft Appendix. We appreciate the considerable work and thought that went into the document. The Urban Coalition and its members reiterate our desire to fully participate in future CALFED processes or actions related to water transfers.

Respectfully, on behalf of the
Bay Delta Urban Coalition Steering Committee*.



Walter L. Wadlow
Assistant General Manager
Santa Clara Valley Water District

*Bay Delta Urban Coalition Steering Committee:

Mr. Michael Carlin, City and County of San Francisco, Public Utilities Commission
Mr. Rande Kanouse, East Bay Municipal Water District
Mr. Tim Quinn, Metropolitan Water District of Southern California
Mr. Stan Sprague, Municipal Water District of Orange County
Mr. Walt Wadlow, Santa Clara Valley Water District